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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/555,575    06/01/00    DELDRME    D    81823/268623

000909  
PILLSBURY WINTHROP LLP  
1600 TYSONS BOULEVARD  
MCLEAN VA 22102

HM22/0921

EXAMINER

ART UNIT	PAPER NUMBER
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1626  
DATE MAILED:

09/21/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



Art Unit: 1626

### Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-10, 14 and 16-18, drawn to products.
- II. Claims 11-13, 15 and 20-22, drawn to method of use.
- III. Claims 19, drawn to processes.

2. The above groups are identified as general areas. Accordingly, as groups, they are independent or distinct as the compounds of group I would be capable of preparation by more than one process, as seen in Example 12, Scheme 4 and 5. The compounds would be capable of more than one use, e.g. spinal injuries, gastrointestinal disorders, etc., and separate search considerations are involved, which would impose a burden if unrestricted.

3. The above groups themselves are inclusive of patentably distinct subject matter. Accordingly, along with the election of one of the above groups, the following action is also taken.

4. Claim 1 is generic to a plurality of disclosed patentably distinct species comprising, for example, the compounds of (1) Example 35, 32, (2) a method of treating a disease using the compounds as in Example 35, 32, etc. and (3) a method of preparing the compounds as in Example 35, 32, etc. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. Upon the election of a single disclosed species (e.g. Example, page number and structural depiction), a generic concept, inclusive of the elected species, will be identified by the Examiner for examination. Moreover, whatever specific compound is ultimately elected, applicants are required to list all claims readable thereon.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Art Unit: 1626

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. D'souza, whose telephone number is (703) 305-0811. The examiner can normally be reached on Monday-Thursday from 8:30 AM - 7:00 PM.

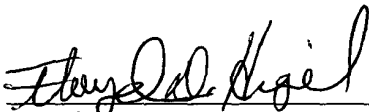
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (703) 308-4537. The Unofficial fax phone number for this Group is (703) 308-7921. The Official fax phone numbers for this Group are (703) 308-4556 or 305-3592.

When filing a FAX in Technology Center 1600, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [Joseph.McKane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-1234

Andrea M. D'souza  
September 20, 2001

  
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Joseph K. McKane  
Supervisory Patent Examiner  
Art Unit 1626  
Technology Center 1